

## THIRD DIVISION

[ **A.M. No. RTJ-05-1924 (Formerly A.M. No. 04-10-568-RTC), October 13, 2010** ]

**RE: CASES SUBMITTED FOR DECISION BEFORE JUDGE DAMASO A. HERRERA, REGIONAL TRIAL COURT, BRANCH 24, BIÑAN, LAGUNA.**

### RESOLUTION

**BERSAMIN, J.:**

Judge Damaso A. Herrera, the former Presiding Judge of Branch 24 of the Regional Trial Court in Biñan, Laguna, filed an application for optional retirement effective April 5, 2004. The Court approved his application through the resolution issued on July 5, 2004 in Administrative Matter No. 11570-Ret.

Then Court Administrator Presbitero J. Velasco, Jr., now a Member of the Court, initiated an administrative matter for agenda dated October 1, 2004 to report on the cases submitted for decision before newly-retired Judge Herrera, citing 55 of such cases mentioned in the March 2004 monthly report of Judge Herrera's branch, some of which were already beyond the reglementary period to decide, <sup>[1]</sup> to wit:

CIVIL CASE NO.	DUE DATES
B-1304	07-24-84
B-4958	10-22-97
B-5632	Appealed
B-4010	10-07-02
B-5926	01-10-02
B-3827	12-04-02
B-5075	06-22-02
B-5801	09-07-02
B-6087	06-24-04
B-6448	06-15-04
B-6449	06-15-04
B-6450	06-15-04
B-6465	06-11-04
B-6115	12-13-02
B-5215	02-05-01
B-5761	02-05-03
B-2738	02-08-03
B-5056	03-19-03
B-6139	05-06-03
B-5489	06-21-03
B-3082	09-20-03
B-3181	10-18-03
B-6287	09-06-03
B-5411	10-25-03

B-6334	10-28-03
B-5316	11-29-03
B-2974	12-05-03
B-6377	12-26-03
B-2035	12-30-03
B-5763	01-15-04
B-6041	01-30-04
B-5651	02-02-04
B-5321	02-17-04
B-6032	03-04-04
B-6381	03-04-04
B-2648	04-04-04
B-2939	04-13-04
B-5893	04-29-04
B-6244	06-20-03
B-6432	03-24-04
B-2957	05-23-04
B-2425	05-09-04
B-4565	05-26-04
B-6505	06-29-04

CRIMINAL CASE NO.	DUE DATES
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7051-B	02-04-02
6074-B	05-11-03
11114-B	05-23-03
9812-B	09-08-03
7006-B	11-29-03
4337-B	06-27-02
10355-B	01-15-04
8777-B	02-03-04
7658-B	03-27-04
11941-B	04-14-04
10195-B	05-17-04

The report further indicated that the cases submitted for decision as reported in the December 2003 monthly report totaling 26 increased to 55 in the March 2004 monthly report due to the addition of 29 cases; that Judge Herrera failed to request the extension of his time to decide the cases; that Branch 24 did not submit the monthly reports of cases within the period required under Administrative Circular No. 4-2004; and that most of the cases submitted for decision had not been reflected in the submitted reports.

Acting on the recommendation of the Court Administrator,<sup>[2]</sup> the Court resolved to:

(a) DIRECT Judge Damaso A. Herrera to explain within ten (10) days from notice his failure to decide the subject cases;

(b) DIRECT Judge Damaso A. Herrera and Acting Clerk of Court Julian R. Orfiano, Jr. to EXPLAIN within ten (10) days from notice their failure to submit their monthly reports of cases on time and why the actual number

of cases submitted for decision are not reflected in said reports and why they should not be held administratively liable for the delay incurred in the submission of the monthly reports of cases.<sup>[3]</sup>

In his *explanation* dated January 21, 2005,<sup>[4]</sup> Acting Clerk of Court Orfiano, Jr. stated that he was serving as both OIC/Acting Branch Clerk of Court and Legal Researcher; that he did not submit the monthly reports of cases on time because of: (a) the heavy case load that already totaled 1076 cases as of January 2003; and (b) the late submission by the criminal and civil docket clerks of the required data for the preparation of the monthly reports despite his constant reminders to them.

For his part, Judge Herrera submitted his *explanation* dated February 2, 2005,<sup>[5]</sup> essentially praying for the Court's kind understanding and consideration. He alleged that prior to his retirement on April 4, 2004 he had decided four of the cases included in the list of undecided cases (*i.e.*, Civil Case No. B-6287, Criminal Case No. 6074-B, Criminal Case No. 11114-B and Criminal Case No. 9812-B); and that he could not act on two other cases (*i.e.*, Criminal Case No. 11941-B and Criminal Case No. 10195-B) whose due dates for decision fell on April 14, 2004 and May 17, 2004, respectively, because of the prohibition for him to act under Supreme Court Circular No. 16 dated December 2, 1986, to wit:

4. When the specified date of retirement is reached without the applicant receiving any notice of approval or denial of his application, he shall cease working and discharging his functions, unless directed otherwise.

Denying any intention not to decide the cases or to delay the submission of the reports, Judge Herrera cited his heavy workload, lack of sufficient time, health reasons, and the physical impossibility of complying with the requirements in his *explanation*. He mentioned that his court had inherited about 1,000 cases, many of which included voluminous records and some of which required the retaking of testimonies due to unavailability of the transcript of stenographic notes (TSNs). He claimed that his regular Branch Clerk of Court had been appointed an Assistant Provincial Prosecutor, leaving him to do his work without any assistance by a Branch Clerk of Court; and that the stenographers had lacked ample time to prepare the TSNs in view of his court having him and another judge assigned to assist him.

Judge Herrera contended that he had requested extensions of time to decide cases; that he had exerted earnest efforts to decide the cases; that his heavy workload and hectic court schedules had prevented him from deciding his cases within the prescribed period; that his delay in the submission of monthly reports and the inaccuracy of the data reflected thereon were caused by his branch's heavy workload and by the fact that his Acting Branch Clerk of Court had also functioned as Legal Researcher.

In its *memorandum* dated April 21, 2005,<sup>[6]</sup> the Office of the Court Administrator (OCA) reported on the administrative matter and recommended that: (a) the administrative matter be re-docketed as a regular administrative complaint against Judge Herrera for gross inefficiency; and (b) a fine of P11,000.00 be imposed upon him, to be deducted from his retirement benefits.